



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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EXHIBIT 1
DATE 1-17-07
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January 17, 2007

Representative Walter McNutt, Chairman
House Natural Resources Committee
Montana 60th Legislature
Helena, MT

Dear Chairman McNutt:

I support the Montana Department of Environmental Quality's (MDEQ) request for a Public Water Supply Connection Fee increase. The MDEQ's connection fee was established in 1991 and has not been increased since then. Congressional amendments to the Federal Safe Drinking Water Act (SDWA) have dramatically increased MDEQ's public health responsibilities since 1991.

In July 2002, in cooperation with the MDEQ, EPA conducted an in-depth review of Montana's federally-delegated drinking water program. The review concluded MDEQ was unable to implement a Public Water Supply program without additional staff and financial resources. As an interim measure, EPA provided additional support to the MDEQ in the form of staff assistance and contract resources, with the expectation that MDEQ would remedy those deficiencies during the next few years following 2002. Lastly, additional Congressionally-legislated requirements have increased MDEQ's responsibilities since 2002, and will do so in the future.

If you have any questions, please do not hesitate to contact me at 406-457-5001.

Sincerely,

John F. Wardell
Director

cc: Richard Oppen, Director MDEQ
Steve Welch, Administrator, Permit and Compliance Division
Jon Dilliard, Chief, Public Water and Subdivisions Bureau



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**Montana Department of
ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

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HB 107

**Department of Environmental Quality Testimony
House Natural Resources Committee
January 17, 2007**

Montana's Public Water Supply Program has been approved by the EPA to implement the minimum federal requirements for public water supplies in Montana. That approval gives us a good bit of flexibility in working with the state's public water supplies in complying with the laws and rules. In 1991 the legislature passed the Public Water Supply Act and established a fee to help fund the implementation of the program. The fees were to be used as a 25% match to a federal grant and for the support of technical assistance to water systems. Since that time, the maximum allowable fees have not changed and the federal grant has not kept pace with additional program duties and costs.

When the fees were first implemented and the program was gearing up a surplus of funds built up in the revenue account while program came up to full implementation. The term "full implementation" here means functioning at a level that can adequately address the currently mandated duties. Full implementation is somewhat of a misnomer because the Public Water Supply Program is delegated with enforcing the minimum federal regulations and those regulations are constantly evolving with new rules and requirements being added with each passing year. Over the course of time, program costs have increased but the fees to support the program have remained the same. We have now come to the point that the revenue is insufficient. We anticipate that the program will go to a negative fund balance in fiscal year 2008.

As the funding available for the program operations has declined, and costs increased, it has become necessary to use a greater portion of the available funding to support the basic regulatory program at the expense of the non-mandated technical assistance to water systems. If it comes to the point the basic program cannot adequately implement the federal requirements, we risk the possibility of EPA rescinding our approval and implementing all or a part of the drinking water requirements in the state. EPA would be less inclined to make the concerted effort to assist systems with compliance and focus more on enforcement of the requirements.

If the Department is going to maintain its ability to implement the Public Water Supply Act and keep the level of technical assistance that can be provided, it is necessary to increase the fee revenues to support the operations of the program. To use the words of a member of the Public Water Supply Focus Group, a group of water system owners, operators, and consultants - "To leave the fees as they are is like asking the Department to provide 2007 services at 1991 prices".